

Appealing your Denial or Delay

If you believe you have been erroneously denied or delayed on a firearms transfer, you may appeal your denial or delay. You may submit your request to the Oregon State Police FICS Unit.

By Email/Mail/Fax:

You may challenge the accuracy of the record used in the evaluation of your denial or delay. If you have additional information (e.g., court documentation) to assist the FICS Unit in correcting or updating the Oregon record, you should include the information with your written correspondence, including your full legal name, date of birth, phone number with area code and best time and day to call.

E-mail: osp.firearms@state.or.us

**Oregon State Police
Criminal Justice Information Services
Division
3565 Trelstad Ave SE
Salem, OR 97317
Facsimile: 503-370-8584**

By Phone:

This is a message line that is monitored throughout the day. Please clearly state and spell your name and provide your telephone number. Include in the message what information you are requesting regarding an Oregon delayed or denied transfer request. Messages will be returned as soon as possible. Calls are returned every day, except Thanksgiving and Christmas, between 8:00 am and 8:00 pm. The FICS Unit is unable to leave a voice mail with any personal information.

**To leave a message, call the OSP Firearms
Challenge Line: 503-373-1808**

Questions of Identity:

The Oregon State Police FICS Unit may request thumbprints from the dealer to verify that the identification of the purchaser matches the identity of the criminal record in question (ORS 166.412 (4) (c)).

Right of Appeal

OAR 257-010-0035 – Access by Individuals for Purpose of Review and/or Challenge

(1) All individuals desiring to review information concerning them maintained in the OSP Criminal Offender Information System or Firearm Instant Check System, or who believes that the information as maintained is inaccurate, incomplete, or maintained in violation of any state or federal statute or act, shall be entitled to review such information and obtain a copy thereof for the purpose of review, challenge or correction.

(2) Verification of such individual's identity may only be effected through submission, in writing, of name, date of birth, and a set of rolled ink fingerprints to the Oregon State Police, 3565 Trelstad Ave S.E., Salem, OR 97317. The request for review may be made at the Oregon State Police, Criminal Justice Information Services Division, 3565 Trelstad Ave S.E., Salem, OR 97317, or through mail or postal service. The OSP may prescribe reasonable hours and places of inspection. If the request is made by mail or postal service, after positive identification by the OSP of the fingerprints submitted, copy of the record, along with the fingerprints submitted for that purpose, will be returned to the individual making the request to the address provided in the request.

(3) All data included in the Criminal Offender Information System is obtained from contributing Criminal Justice and Designated Agencies. All data included in the Firearm Instant Check System is obtained from contributing Oregon Gun Dealers as defined in 18 U.S.C. § 921. If after review of the information concerning them as maintained in such record, the individual believes that it is incomplete or incorrect in any respect and wishes changes, corrections, or updating of the alleged deficiency, they must make application directly to the contributor of the questioned information, requesting the appropriate agency or Gun Dealer to correct it in accordance with its respective administrative rules and procedures. Upon receipt of an official communication directly from the agency or Gun Dealer which contributed the original information, the OSP will make any changes necessary in accordance with the information supplied by the agency or Gun Dealer.

(4) Any individual whose record is not removed, modified, or corrected as they may request, following refusal by the agency originally contributing such information may proceed under the provisions of Rules 30.00 to 30.80 of the Attorney General's Model Rules of Practice and Procedures under the Administrative Procedure Act, relating to contested cases and judicial review. After conclusion of such procedure or review, any information found to be inaccurate, incomplete, or improperly maintained, shall be removed from the individual's record and the originating agency so notified with copy of the record as corrected being furnished to the challenging individual.

(5) Any Criminal Justice or Designated Agency receiving a record after such notice of contested case has been filed and prior to final determination, shall be notified by the OSP that the record is being challenged.

(6) All individuals desiring to obtain a police clearance or documentation of no record maintained in the OSP Criminal Offender Information System for purposes other than review, challenge or correction specified in (1) will be charged a fee of \$33 for each request. Verification of the requesting individual's identity shall only be effected through submission and positive identification of the person's fingerprints.

(7) All individuals desiring to obtain a set of their inked fingerprints for purposes other than review, challenge or correction specified in section (1) of this rule will be charged a fee of \$20 for each fingerprint card provided, except as provided in ORS 181.556(1) & (2).

OAR 257-010-0050 - Rights of Appeal

A Criminal Justice, Designated Agency, Regional Information Sharing System, or employee desiring to appeal any action, order, or administrative ruling by the OSP may proceed under the provisions of Rules 30.00 to 30.80 of the Attorney General's Model Rules of Practice and Procedures under the Administrative Procedure Act relating to contested cases and judicial review.

Requesting a FBI NICS Appeal

You may request the reason for your denial or delay from the FBI in writing by mail, facsimile, or on-line.

Additional information on the federal appeal process is available on the NICS Appeals website:

www.fbi.gov/nics-appeals

What Prohibits an Individual from Receiving a Transferred Firearm?

A background denial from the Oregon State Police FICS Unit indicates the subject of a background check is disqualified to receive a transfer based on a criminal history record containing a state or federal prohibitor. A delay message indicates the subject has been matched with a record potentially containing state or federal prohibitive criteria.

Section 922(g)(1-9) and (n) of the Gun Control Act prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce. **These prohibitions apply to any person who:**

18 U.S.C. §922 (g) (1) / ORS 166.470(1) (b)

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year

18 U.S.C. §922 (g) (2) / ORS 166.470(1) (c)

Is a fugitive from justice

18 U.S.C. §922 (g) (3)

Is an unlawful user of or addicted to any controlled substance

18 U.S.C. §922 (g) (4) / ORS 166.470(1) (e)

Has been adjudicated as a mental defective or committed to a mental institution

18 U.S.C. §922 (g) (5)

Is an alien illegally or unlawfully in the United States or who has been admitted to the United States under a nonimmigrant visa

18 U.S.C. §922 (g) (6)

Has been discharged from the Armed Forces under dishonorable conditions

18 U.S.C. §922 (g) (7)

Having been a citizen of the United States, has renounced U.S. citizenship

18 U.S.C. §922 (g) (8)

Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner

18 U.S.C. §922 (g) (9)

Has been convicted in any court of a misdemeanor crime of domestic violence

18 U.S.C. §922 (n)

Is under indictment for a crime punishable by imprisonment for a term exceeding one year

Oregon State Prohibitors

In addition to federal prohibitors, Oregon law prohibitors include:

ORS 137.540(L)

Has conditions of probation limiting possession of firearms

ORS 166.470(1) (g)

Has been convicted or found not guilty by reason of insanity during the previous four years for the following misdemeanors:

Assault 4th Degree: ORS 163.160

Menacing: ORS 163.190

Recklessly Endangering: ORS 163.195

Strangulation: ORS 163.187

Intimidation 2nd Degree: ORS 166.155(1) (b)

ORS 166.250(B) (i) (ii)

While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or misdemeanor involving violence, as defined in ORS 166.470; and was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section.

Out-Of-State Records

The FICS unit requests additional information from out-of-state agencies in accordance with each agency's direction. Questions regarding incomplete or inaccurate out-of-state criminal history records should be directed towards the agencies within that state.

Oregon State Police Firearms Instant Check System (FICS) Unit



Guide to Appealing an Oregon Firearm Transfer Denial or Delay

Your Rights and Responsibilities